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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,921	01/26/2004	Onje' Erfan	ERF 1125	1920
26092	7590	10/06/2005	EXAMINER	
KYLE W. ROST 5490 AUTUMN CT. GREENWOOD VILLAGE, CO 80111			FAULCON JR, LENWOOD	
			ART UNIT	PAPER NUMBER
			3762	
DATE MAILED: 10/06/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/707,921	ERFAN, ONJE'	
	Examiner	Art Unit	
	Lenwood Faulcon, Jr.	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/26/04 & 3/1/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by the disclosure of the NET 1000 device as referenced on the website <http://net1device.com>.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim et al. (U.S. Patent No. 5,514,175) in view of Colsen et al. (U.S. Patent No. 4,966,164) and further in view of McCall (U.S. Patent No. 4,267,838).

Kim et al. teaches of an auricular electrical stimulation device, comprising a stimulus generator (11) connected to an ear contact assembly (13). Kim et al. also teaches of the device as comprising an impedance detector circuit (col. 3 lines 45-47) and left and right earpieces (Figure 3), which Examiner interprets to be a headset. Kim et al. further teaches that the system provides treatment for pain, anxiety and other neural related maladaptive neural dysfunctions (col. 2 lines 50-55). Kim et al. also

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teaches of the use of a sonic annunciator for reporting impedance levels (col. 5 lines 66-67 and col. 6 lines 1-2).

Colsen et al. teaches of a combined sound generating device and electrical acupuncture device and method of using the same, by stimulating a plurality of acupuncture points of the auricle (col. 2 lines 59-66). Colsen et al. further teaches of the system having the ability to be self-administered by the patient (col. 9 lines 9-10). Colsen et al. also teaches that the system provides treatment for anxiety, stress and pain (col. 3 lines 6-9).

McCall teaches of an apparatus for electrical impulse acupressure treatment (col. 1 lines 6-11), comprising an earpiece with an elongated protrusion (10).

It would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kim et al. with the teachings of Colsen et al. and McCall. Kim et al., Colsen et al. and McCall all teach of devices, which provide electrical energy to a patient for therapeutic purposes, and thus teach of analogous arts. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the system as taught by Kim et al. to have a system in which the device could be self-administered by the patient, since this would increase the flexibility and effectiveness of the system, as self-administrable systems are commonly known in the art, as taught by Colsen et al.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the systems as taught by Kim et al. and Colsen et al. to have earpieces that comprise an elongated protrusion as taught by McCall, to provide an

efficient contact with the targeted tissue site. Further it would have been obvious to one having ordinary skill in the art at the time of the invention to modify the systems as taught by Kim et al., Colsen et al. and McCall to have stimulation devices that comprise various electrode arrangements, including an electrode array, since numerous electrode configurations and electrode arrays are commonly known in the art for providing effective stimulation.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to combine the teachings of Kim et al., Colsen et al. and McCall to have the limitations of claims 1-15

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Leech (U.S. Patent No. 521,800), Pollard (U.S. Patent No. 1,623,552), Morey (U.S. Patent No. 3,894,532), McCall (U.S. Patent No. 4,450,846), Faltys et al. (U.S. Patent No. 6,826,430).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lenwood Faulcon, Jr. whose telephone number is 571-272-6090. The examiner can normally be reached on Monday-Thursday from 9 to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes, can be reached on 571-272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lenwood Faulcon, Jr.


George Manuel

Primary Examiner